



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1297X]

Indiana & Ohio Railway Company—Discontinuance of Service Exemption—in Warren County, Ohio

Indiana & Ohio Railway Company (IORY) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over a 5.6-mile rail line extending between milepost 1.10 near Lebanon and milepost 6.70 at Hageman Junction near Mason in Warren County, Ohio (the Line).¹ The Line traverses U.S. Postal Service Zip Codes 45036 and 45040.

IORY has certified that: (1) no local traffic has moved over the Line for at least two years; (2) because the Line is stub-ended, it has not handled any overhead traffic in at least two years, and there is no potential overhead traffic that would need to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S.

¹ While the verified notice states that the Line is owned by the City of Lebanon, agency precedent (which is cited by IORY) indicates that IORY itself acquired the Line in 1987, and no other authority is provided to suggest that the Line has since been transferred. (Verified Notice 2 n.1.) Ind. & Ohio Ry.—Acquis. & Operation Exemption—Ind. & Ohio R.R., FD 30906 (ICC served Feb. 6, 1987); see also Ind. & Ohio Rail Passenger Corp.—Trackage Rights Exemption—Cincinnati Term. Ry., et al., FD 32894 (STB served Apr. 30, 1996) (notice of exemption for, among other things, IORY to grant trackage rights to the Indiana & Ohio Rail Passenger Corporation between Lebanon and Hageman).

District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)² to subsidize continued rail service has been received, this exemption will be effective on March 29, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)³ must be filed by March 9, 2020.⁴ Petitions for reconsideration must be filed by March 19, 2020, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

² Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

³ The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

⁴ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

A copy of any petition filed with Board should be sent to IORY's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave., N.W., Suite 1300 South, Washington, DC 20004.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at www.stb.gov.

Decided: February 25, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

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